

SO ORDERED.

UNITED STATES BANKRUPTCY COURT
Dated: December 10, 2018
FOR THE DISTRICT OF ARIZONA



Minute Entry Order

Madeleine C. Wanslee

Madeleine C. Wanslee, Bankruptcy Judge

Hearing Information:

Debtor: HUFFERMEN, INC.
Case Number: 2:18-BK-14369-MCW Chapter: 11
Date / Time / Room: THURSDAY, DECEMBER 06, 2018 11:00 AM 7TH FLOOR #702
Bankruptcy Judge: MADELEINE C. WANSLEE
Courtroom Clerk: CHRISTINA JOHNSON
Reporter / ECR: MICHELLE RADICKE-STEVENSON

Matters:

- 1) EXPEDITED HEARING ON DEBTOR'S EMERGENCY MOTION FOR AUTHORIZATION TO USE CASH COLLATERAL
R / M #: 20 / 0
- 2) EXPEDITED HEARING ON DEBTOR'S MOTION FOR INTERIM AND FINAL ORDERS ESTABLISHING ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES PURSUANT TO 11 U.S.C. §366(c)
R / M #: 21 / 0
- 3) EXPEDITED HEARING ON DEBTOR'S MOTION TO ALLOW CHECKS ISSUE PRE-PETITION TO BE CLEARED THROUGH DEBTOR'S EXISTING PRE-PETITION BANK ACCOUNTS
R / M #: 22 / 0
- 4) EXPEDITED HEARING ON DEBTOR'S EMERGENCY MOTION FOR AN ORDER: (A) AUTHORIZING PAYMENT OF UNPAID PRE-PETITION WAGES, SALARIES, REIMBURSEMENT OF EXPENSES AND EMPLOYEE BENEFITS; AND (B) DIRECTING ALL BANKS TO HONOR PRE-PETITION CHECKS FOR PAYMENT OF PRE-PETITION EMPLOYEE OBLIGATIONS
R / M #: 23 / 0

Appearances:

PATRICK F KEERY, ATTORNEY FOR HUFFERMEN, INC.
NANCY KALAFAT SWIFT/DEBORAH PERRY (T), ATTORNEYS FOR IPT DEER VALLEY IC, LLC
EDWARD K. BERNATAVICIUS, ATTORNEY FOR U.S. TRUSTEE
LARRY FOLKS, ATTORNEY FOR JPMORGAN CHASE BANK, N.A.

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Proceedings:

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Mr. Keery confirmed there are no objections. He stated his position and answered the court's questions. Mr. Keery discussed his efforts to provide notice.

Mr. Bernatavicius had nothing to add.

COURT: IT IS ORDERED GRANTING THE MOTION ON AN INTERIM BASIS AS WELL AS THE PROCESS AND PROCEDURE STATED THEREIN. MR. KEERY MAY UPLOAD A FORM OF ORDER. IT IS FURTHER ORDERED CONTINUING THIS HEARING TO JANUARY 8, 2019 AT 11:15 AM.

#3

Mr. Keery stated his position and confirmed the debtor anticipates opening new debtor-in-possession accounts by the end of this week.

Mr. Bernatavicius stated no objection to the motion, but he requested the order state that the checks that are allowed to clear as the ones specified on exhibit A as agreed to by Mr. Keery.

COURT: IT IS ORDERED GRANTING THE MOTION FOR THE REASONS STATED ON THE RECORD. THE DEBTOR IS DIRECTED TO OPEN NEW ACCOUNTS FOR POST-PETITION OPERATION OF THE BUSINESS. MR. KEERY MAY UPLOAD A FORM OF ORDER.

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The court stated concern as to employee Ramirez.

Mr. Keery responded to the court's concern. He stated his position noting there are no objections. Mr. Keery confirmed exhibit A attached to the motion is an example of the last payroll run, and the next payroll run may not include Mr. Ramirez. He confirmed the principals are not being paid and he will attach an updated list of the actual payroll run to a proposed order as an exhibit.

Mr. Bernatavicius stated his position noting his office does not normally agree to payments to insiders or terminated employees.

The court noted the amount due to Mr. Ramirez is de minimis.

COURT: IT IS ORDERED GRANTING THE MOTION FOR THE REASONS STATED ON THE RECORD. THE COURT WILL ALSO APPROVE PAYMENT TO MR. RAMIREZ. MR. KEERY MAY UPLOAD A FORM OF ORDER, AND HE WILL ATTACH AS AN EXHIBIT TO THE PROPOSED ORDER AN UPDATED PAYROLL SCHEDULE.

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(continue)... 2:18-BK-14369-MCW

THURSDAY, DECEMBER 06, 2018 11:00 AM

Mr. Keery stated his position noting the only creditor interested in cash collateral is JPMorgan Chase Bank. He addressed the objection filed by Chase Bank. Mr. Keery requested an additional two weeks to allow the parties to work through issues. He addressed the limited objection filed by debtor's landlord, IPT Deer Valley. Mr. Keery urged the court to approve the motion, and grant the debtor relief with regard to the first 60 days. The debtor hopes to be out of the building by January 30th, and is currently working on signing a lease for a new space. Once the new lease is signed, he anticipates filing a motion to approve the lease and rejecting the lease with IPT.

Mr. Folks stated his position. He advised he is authorized to consent to the debtor to using cash collateral for two weeks, but he does not consent to adequate protection payments in the current budget.

Ms. Perry stated her position noting the objection to the budget stands and she reserved her rights with respect to the budget. As to Mr. Keery's argument with respect to the request for relief, she suggested that either deadlines be set, or the court allow time to file a response.

Ms. Swift responded to Mr. Keery's comments.

Mr. Keery replied and stated his concern as to fees and costs.

COURT: THE COURT NOTES THE AGREEMENT ON THE RECORD BY JPMORGAN CHASE BANK TO ALLOW THE USE FOR CASH COLLATERAL FOR AN INTERIM PERIOD WITH CERTAIN RESERVATIONS OF RIGHTS THAT MR. FOLKS HAS ARTICULATED ON THE RECORD. THE COURT WILL EMBRACE AND ADOPT THE PARTIES' STIPULATION AND AGREEMENT AS TO THE BUDGET THAT WAS FILED. THE COURT WILL SIGN THIS MINUTE ENTRY. IT IS FURTHER ORDERED CONTINUING THIS HEARING TO DECEMBER 19, 2018 AT 10:30 AM. THE PARTIES WILL CONTACT CHAMBERS IF THEY REACH AN AGREEMENT SO THE HEARING CAN BE VACATED. THE PARTIES MAY ALSO REQUEST A CONTINUANCE OF THE HEARING TO JANUARY 8, 2019 AT 11:15 AM.

THE COURT'S RULING DOES NOT SERVE AS ANY TYPE OF ADJUDICATION THAT NEGATIVELY IMPACTS THE LANDLORD, IPT DEER VALLEY IC, LLC. THE COURT UNDERSTANDS THERE MAY BE FORTHCOMING MOTIONS AS TO THE LANDLORD'S CLAIM. THE COURT CLARIFIED IT IS IMPLICITLY OVERRULING THE OBJECTION TO CASH COLLATERAL FILED BY IPT DEER VALLEY IC, LLC.

HONORABLE MADELEINE C. WANSLEE
DATED AND SIGNED ABOVE